



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,533	02/07/2001	Campbell Rogers	MIT 7501 CON	2030

23579 7590 06/11/2002

PATREA L. PABST
HOLLAND & KNIGHT LLP
SUITE 2000, ONE ATLANTIC CENTER
1201 WEST PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3400

[REDACTED] EXAMINER

GAMBEL, PHILLIP

ART UNIT	PAPER NUMBER
1644	3

DATE MAILED: 06/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/776533 GAMBEL	Examiner Art Unit	Rogers 1644
<p><i>- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -</i></p> <p>Period for Reply</p> <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>1</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 			
Status	<p>1)<input type="checkbox"/> Responsive to communication(s) filed on _____.</p> <p>2a)<input type="checkbox"/> This action is FINAL. 2b)<input checked="" type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>		
Disposition of Claims	<p>4)<input checked="" type="checkbox"/> Claim(s) _____ is/are pending in the application. 1-17</p> <p>4a) Of the above claim(s) _____ is/are withdrawn from consideration.</p> <p>5)<input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6)<input type="checkbox"/> Claim(s) _____ is/are rejected.</p> <p>7)<input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8)<input checked="" type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement. 1-17</p>		
Application Papers	<p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input type="checkbox"/> The drawing(s) filed on _____ is/are: a)<input type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11)<input type="checkbox"/> The proposed drawing correction filed on _____ is: a)<input type="checkbox"/> approved b)<input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.</p> <p>12)<input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>		
Priority under 35 U.S.C. §§ 119 and 120	<p>13)<input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a)<input type="checkbox"/> All b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of: 1.<input type="checkbox"/> Certified copies of the priority documents have been received. 2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p> <p>* See the attached detailed Office action for a list of the certified copies not received.</p> <p>14)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a)<input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>		
Attachment(s)	<p>1)<input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____</p> <p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____. 5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____</p>		

DETAILED ACTION

1. The instant application appears in compliance with the Sequence Rules.
2. Prior to setting forth the restriction requirement, it is pointed out that the claims are drawn to patentably distinct methods relying upon patentably distinct products as they read on adhesion molecule receptors and ligands. As disclosed on pages 7-8 of the instant specification (Composition), the methods rely upon compositions as they read on antibodies, ligands, proteins, antisense oligonucleotides, ribozymes and peptidomimetics are directed to patentably distinct adhesion molecules, which differ in structure and modes of action to such an extent and require non-coextensive searches to such an extent that they are considered separately patentable. Therefore, the restriction will be set forth for each of the various groups, irrespective of the format of the claims, because these are not proper species.

For convenience, the Groups will be set forth as they read on adhesion molecules or adhesion molecule-specific antibodies only in this Restriction.

Further, it is noted the instant specification discloses a number of patentably distinct agents (e.g. pages 7-8, Composition), which may be subject to further restriction and/or species election. (e.g. antisense oligonucleotides and ribozymes as they read on a adhesion molecule receptor or ligand)

The Groups set forth below appear to read on the claims as currently recited, but may be subject to further Restriction and/or species election depending on the claimed recitation.

Applicant is invited to clearly elect a single Group as it reads on a particular therapeutic agent and to provide an appropriate claim that reads on the elected invention.

3. Restriction to one of the following inventions is required under 35 U.S.C. § 121:
 - I. Claims 1-8, 10-12, drawn to methods of inhibiting stenosis or restenosis with Mac-1-specific antibodies, classified in Class 424, subclass 130.1.
 - II. Claims 1-5, 8-9, 11-12, drawn to methods of inhibiting stenosis or restenosis with LFA-1-specific antibodies, classified in Class 424, subclass 130.1.
 - III. Claims 1-5, 8, 11-12, drawn to methods of inhibiting stenosis or restenosis with p150,95-specific antibodies, classified in Class 424, subclass 130.1.
 - IV. Claims 1-5, 8, 11-12, drawn to methods of inhibiting stenosis or restenosis with CD11d/CD18-specific antibodies, classified in Class 424, subclass 130.1.
 - V. Claims 1-4, 7-9, 11-12, drawn to methods of inhibiting stenosis or restenosis with ICAM-1, classified in Class 514, subclass 8.

- VI. Claims 1-8, 11-12, drawn to methods of inhibiting stenosis or restenosis with fibrinogen, classified in Class 514, subclass 8.
- VII. Claims 1-8, 11-12, drawn to methods of inhibiting stenosis or restenosis with C3bi, classified in Class 514, subclass 8.
- VIII. Claims 1-8, 11-12, drawn to methods of inhibiting stenosis or restenosis with factor X, classified in Class 514, subclass 8.
- IX. Claims 1-5, 8-9, 11-12, drawn to methods of inhibiting stenosis or restenosis with ICAM-2, classified in Class 514, subclass 8.
- X. Claims 1-5, 8-9, 11-12, drawn to methods of inhibiting stenosis or restenosis with ICAM-3, classified in Class 514, subclass 8.
- XI. Claims 1-5, 8, 11-12, drawn to methods of inhibiting stenosis or restenosis with uPAR, classified in Class 514, subclass 8.
- XII. Claims 1-5, 8, 11-12, drawn to methods of inhibiting stenosis or restenosis with C36, classified in Class 514, subclass 8.
- XIII. Claims 13-15, 17, drawn to compositions comprising Mac-1-specific antibodies, classified in Class 424, subclass 130.1.
- XIV. Claims 13-14, 17, drawn to compositions comprising LFA-1-specific antibodies, classified in Class 424, subclass 130.1.
- XV. Claims 13-14, 17, drawn to compositions comprising p150,95-specific antibodies, classified in Class 424, subclass 130.1.
- XVI. Claims 13-14, 17, drawn to compositions comprising CD11d/CD18-specific antibodies, classified in Class 424, subclass 130.1.
- XVII. Claims 13-14, 16-17, drawn to compositions comprising ICAM-1, classified in Class 514, subclass 8
- XVIII. Claims 13-14, 16-17, drawn to compositions comprising fibrinogen, classified in Class 514, subclass 8.
- XIX. Claims 13-14, 16-17, drawn to compositions comprising C3bi, classified in Class 514, subclass 8.
- XX. Claims 13-17, drawn to compositions comprising factor X, classified in Class 514, subclass 8.

XXI. Claims 13-14, 17, drawn to compositions comprising ICAM-2, classified in Class 514, subclass 8

XXII. Claims 13-14, 17, drawn to compositions comprising ICAM-3, classified in Class 514, subclass 8.

XXIII. Claims 13-14, 17, drawn to compositions comprising uPAR, classified in Class 514, subclass 8

XXIV. Claims 13-14, 17, drawn to compositions comprising C36, classified in Class 514, subclass 8.

4. Inventions I-XII are different methods, which require patentably distinct ingredients. Therefore, they are patentably distinct. The claimed methods employ various adhesion molecule receptors and/or ligands or specific antibodies thereto are distinct because their structures, physicochemical properties and modes of action are different, which require non-coextensive searches. These molecules are different with respect to biochemical properties; including primary, secondary and tertiary structure. These molecules do not share a substantial structural feature essential to a common utility. Therefore, they are patentably distinct.

5. Inventions XIII-XXIV are different products which encompass adhesion molecule receptors and/or ligands or specific antibodies thereto are distinct because their structures, physicochemical properties and modes of action are different, which require non-coextensive searches. These molecules are different with respect to biochemical properties; including primary, secondary and tertiary structure. These molecules do not share a substantial structural feature essential to a common utility. Therefore, they are patentably distinct.

6. Because these inventions are distinct for the reasons given above and the search required for any Group from Groups I-XXIV is not required for any other group from Groups I-XXIV and Groups I-XXIV have acquired a separate status in the art because the searches are not co-extensive and encompass divergent subject matter, restriction for examination purposes as indicated is proper.

7. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Art Unit 1644

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gabel whose telephone number is (703) 308-3997. The examiner can normally be reached Monday through Thursday from 7:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.

Phillip Gabel

Phillip Gabel, PhD.

Primary Examiner

Technology Center 1600

June 10, 2002